

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

PATRICIA WHITE, individually and as  
Guardian of Tarar Cassel, and TARAR  
CASSEL,

Plaintiffs,

v.

COMMUNITY OPTIONS, INC., VIRTUA  
WILLINGBORO HOSPITAL, LAUREL  
BROOK REHABILITATION &  
HEALTHCARE CENTER, POWERBACK  
REHABILITATION-PISCATAWAY, JOHN  
DOE #1-10 (fictitious) and ABC  
CORPORATION #1-10 (fictitious)  
(representing previously unidentified  
physicians and medical providers),

Defendants.

Civ. Action No. 21-16601 (FLW)

**ORDER**

THIS MATTER having been opened to the Court upon a Motion to Remand (the “Motion”) for lack of subject matter jurisdiction by Theodore C. Levy, Esq., counsel for plaintiffs Patricia White and Tarar Cassel (“Plaintiffs”), pursuant to 28 U.S.C. § 1447(c) [ECF No. 3]; it appearing that defendant Laurel Brook Operator, LLC d/b/a Laurel Brook Rehabilitation & Healthcare Center (“Defendant”), by and through its counsel William J. Mundy, Esq., opposes the Motion [ECF No. 5]; it appearing that on October 21, 2021, after Defendant filed its Opposition, Plaintiffs filed an appendix to their Motion attaching the Third Circuit’s decision in *Estate of Maglioli v. Alliance HC Holdings, LLC*, 16 F.4th 393 (3d Cir. 2021) [ECF No. 8], which precludes Defendant’s position in its Opposition that the Court possesses subject matter jurisdiction based on the Public Readiness and Emergency Preparedness Act (“PREP Act”), 42 U.S.C. §§ 247d-6d(d), 247d-6e, and the federal officer removal statute, 28 U.S.C. § 1442(a)(1); it appearing that Defendant filed a Response on

October 26, 2021, arguing solely that *Maglioli* did not control this case because, as of that date, the decision was not yet final given that the appellants could request a rehearing within 14 days [ECF No. 9]; it appearing, however, that on February 7, 2022, the Third Circuit issued an order denying a request for rehearing, *see Estate of Maglioli v. Alliance HC Holdings, LLC*, No. 20-2833, ECF No. 92 (Feb. 7, 2022), and that the Third Circuit's decision is now precedential; it appearing that, under *Maglioli*, the Court lacks subject matter jurisdiction and must remand the case to state court, *see* 28 U.S.C. § 1447(c); the Court having considered the submissions of the parties pursuant to Federal Rule of Civil Procedure 78, and for good cause shown,

**IT IS** on this 16th day of February, 2022:

**ORDERED** that Plaintiffs' Motion to Remand is **GRANTED**; and it is further

**ORDERED** that the Clerk of the Court is directed to close this case.

/s/ Freda L. Wolfson  
Hon. Freda L. Wolfson  
U.S. Chief District Judge